

## Letters from U.S. Department of Agriculture



United States  
Department of  
Agriculture

Food and  
Consumer  
Service

3101 Park Center Drive  
Alexandria, VA  
22302-1500

February 4, 1999

Mr. C. Kent McGuire  
Assistant Secretary  
U.S. Department of Education  
Office of Educational Research and Improvement  
FB-400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Mr. McGuire;

The confidentiality of information about children eligible for free and reduced price meals under the National School Lunch Program (NSLP) has long been a sensitive issue for us at the Department of Agriculture. There have been many requests through the years for information about children eligible for free and reduced price meals. Many of these requests were from Federal and State education programs. Free and reduced price school meal eligibility information does not come under the purview of the Family Educational Rights and Privacy Act, since it is not part of an education record.

Previously, program operators were only permitted to release aggregate information about children eligible for free and reduced price meals. Congress amended the National School Lunch Act (42 U.S.C. 1758), which is the authorizing legislation for the NSLP, to now allow limited disclosure of a child's free and reduced price meal eligibility status. Additionally, the statute also specifies civil and criminal penalties for unauthorized disclosure by the determining agency of the recipient agency.

Prior to issuance of a final regulation, we are authorizing the State agency, school food authority, school, child care institution or Summer Food Service Program sponsor that makes the free and reduced price meal or free milk eligibility determination to disclose free and reduced price eligibility information to the extent authorized by the statute. We are pleased to provide you a copy of the guidance we recently issued to implement the disclosure provision in the statute. We encourage you to share the guidance with your associates and others who may be interested in this policy. We also have enclosed the pertinent part of the statute for your review.

Please note that although the statute permits limited disclosure of free and reduced price eligibility information, the decision on whether to disclose information that will identify children as eligible for free and reduced price meals or free milk is at the discretion of local school and program operators.

Please do not hesitate to contact us if you have any questions on the use of eligibility information.

Sincerely,

Shirley R. Watkins  
Under Secretary  
Food, Nutrition and Consumer Services

Enclosures



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**SUBJECT:** Limited Disclosure of Children's Free and Reduced Price Meal or  
Free Milk Eligibility Information (SP 99-3); (CACFP 99-2)

**TO:** State Agencies  
Child Nutrition Programs  
All States

The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended Section 9(b)(2)(C) of the National School Lunch Act (NSLA) (42 U.S.C. 1751(b)(2)(C)) to allow, without consent, limited disclosure of information about free and reduced price meal or free milk eligibility. The disclosure limitations apply to all the Child Nutrition Programs. The statute also specifies a fine of not more than \$1,000 or imprisonment of not more than 1 year, or both, for unauthorized disclosures of free and reduced price meal or free milk eligibility information.

**I. What information may be disclosed permissibly without consent?**

(The term "persons directly connected" in this section includes Federal, State and local program operators responsible for program administration or program compliance and their contractors.)

**A. Disclosing names and eligibility status in accordance with the NSLA.**

Determining agencies may disclose, without consent, participants' **names and eligibility status** (whether they are eligible for free meals or free milk or reduced price meals) to persons *directly* connected with the administration or enforcement of the following programs:

1. Federal education programs, such as Title I and the National Assessment of Educational Progress.
2. State health or State education programs provided the programs are administered by a State agency or a local education agency.

Representatives of State or local education agencies evaluating the results and compliance with student assessment programs would be covered only to the extent that the assessment program was established at the State, not local level.

3. Federal, State, or local means-tested nutrition programs with eligibility standards comparable to the National School Lunch Program (i.e., food assistance programs to households with income at or below 185 percent of the Federal poverty level, such as the Food Stamp Program or a State or local nutrition program).

NOTE: To receive the full document about disclosure of NSLP information, call 1-800-283-NAEP (6237).